

CLEAN WATER ACT2-14-D. Emergency Temporary Restraining Orders

1. **AUTHORITY.** Pursuant to the Clean Water Act, including sections 309, 311, 402(h), 504 and 506, to refer requests for Emergency Temporary Restraining Orders to the U.S. Department of Justice and to the appropriate United States Attorney.
2. **TO WHOM DELEGATED.**
 - a. Director, Enforcement and Compliance Assurance Division.
 - b. Director, Superfund and Emergency Management Division.
3. **LIMITATIONS.**
 - a. Any official exercising this authority must obtain the advance concurrence of the regional counsel or designee on the legal sufficiency of the referral before exercising this authority. The RC may waive concurrence in writing.
 - b. Any official exercising this authority must notify the assistant administrator for the Office of Enforcement and Compliance Assurance and the assistant administrator for the Office of Water before exercising this authority. The AA for OECA may waive the requirement for notification in writing. With respect to discharges of oil or a hazardous substance under Section 311 of the CWA, the assistant administrator for the Office of Land and Emergency Management must also be notified.
4. **REDELEGATION AUTHORITY.**
 - a. This authority may be redelegated to the on-scene coordinator level, and no further.
 - b. An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command down to the official to whom it has been specifically redelegated.
5. **ADDITIONAL REFERENCES.**
 - a. Memorandum of Understanding between the U.S. Environmental Protection Agency and the U.S. DOJ, June 1977, 42 Fed. Reg. 48,942 (1977).

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- b. For referral of other civil actions under CWA, see the Chapter 2 delegation entitled "Civil Judicial Enforcement and Administrative Penalty Collection Actions."



Debra H. Thomas
Acting Regional Administrator

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Date